S.B. CIVIL WRIT PETITION NO.6057/2005

Rampal Puri & ors. vs. Sarvodaya Sadhna Sangh & ors.

Date : 18.10.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. JL Purohit, for the petitioners.

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Heard learned counsel for the petitioners.

The petitioners are aggrieved against the order dated 23.3.2005 by which their application for taking the enquiry report on record was rejected by the trial court.

It appears from the facts of the case that a suit for eviction was filed by the plaintiff against the petitioners. According to learned counsel for the petitioners, the plaintiff is claiming ownership for the property in question. The petitioners want to submit the enquiry report wherein there is a finding of competent authority that the plaintiff is mismanaging the property and by this document, the petitioners want to show that the plaintiff will dispose of or may destroy the property or may loose the property. According to learned counsel for the petitioners, the petitioners want to show the conduct of the plaintiff.

The plea taken by the petitioners is absolutely irrelevant in view of the fact that the petitioners are claiming themselves to be owners of the property and they

can succeed on proving their title. In case, the petitioners failed to prove their title and if the Court reaches to the conclusion that the plaintiff is entitled for decree of possession of the property, even then if the plaintiff destroys the property, an unauthorised occupant or the person who has no right, title or interest in the property cannot have any grievance against the action and omission of the plaintiff or owner of the property.

In view of the above, the application of the petitioners was misconceived and the trial court was right in dismissing the application holding the enquiry report as irrelevant piece of evidence.

Consequently, this writ petition having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya